
APPENDIX I

Issues Regarding Notice and Service

1.0 Implementation of FRBP 9006(f) - 3 Additional Days to Act or Proceed

1.1 FRBP 9006(f). Pursuant to FRBP 9006(f) as amended effective December 1, 2009, when an item that contains a deadline to act or proceed is served by any means other than personal delivery or posting as described in F.R. Civ. P. 5(b)(2)(A)-(B), and the deadline proscribed for acting or proceeding is a specific number of days after the date the item is served, three days are added to the deadline to act or proceed.

1.2 3 Additional Days to Act or Proceed. 3 additional days are added to a deadline when the deadline proscribed is determined by **counting forward** a specified number of days after the date indicated on the proof of service.

a. Applicable Situations Include Service of a/an:

1. Summons and notice of status conference in an involuntary petition;
2. Summons and notice of hearing on petition pursuant to 11 U.S.C. Chapter 15;
3. Notice of intent;
4. Notice to cure default (*example*: relief from stay adequate protection agreement);
5. Order to comply (when compliance deadline is determined by counting forward a specific number of days after service of the order);
6. Discovery request;
7. Demand;
8. Answer to a crossclaim;
9. Reply to a counterclaim; and
10. Motion or application made pursuant to LBR 9013-1(o) or pursuant to other LBR with a similar notice and opportunity to file a response and request a hearing

b. Applicable LBR forms Effective October 24, 2010: Please see Public Notice 10-021 for a list of LBR forms relating to 3 additional days to act or proceed.

c. Language of Notice: Appropriate language to include when providing notice of a deadline to act or proceed, when not using a court approved form, is:

The deadline for *(fill in the required action or proceeding)* is *(fill in number of days)* days after the date of service of this *(fill in item being served)*, plus an additional 3 days **if you were** ~~unless this *(fill in item being served)* was~~ served by **mail**,

~~electronically or pursuant to personal delivery or posting as described in F.R. Civ. P. 5(b)(2)(D),(E) or (F)(A)-(B).~~ If you fail to comply with this deadline, the court may treat such failure as a waiver of your right to (fill in the required action or proceeding).

1.1 No Additional Days to Act or Proceed. Additional days are not added to the deadline if: (1) the deadline proscribed is determined by **counting backward** a specific number of days prior to a scheduled event; or (2) an exact deadline is set without reference to the date on the proof of service.

a. Examples of Notices re Scheduled Events:

1. hearing date
2. status conference
3. pre-trial conference
4. trial
5. mediation
6. settlement conference

b. Example of Notice with Exact Deadline:

1. Summons and notice of status conference re adversary proceeding complaint.